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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

Jose A. Higuera, M.D.

Holder of License No. 12358
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-09-1210A

**INTERIM ORDER FOR PRACTICE
RESTRICTION AND CONSENT TO SAME**

INTERIM CONSENT AGREEMENT

Jose Higuera, M.D., ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Order for Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 12358 for the practice of allopathic medicine in the State of Arizona.

3. On September 21, 2009, the Board received a complaint alleging that Dr. Higuera had inappropriately touched a female patient during an examination. Subsequently, new information was received from the Phoenix Police Department indicating previous complaints of a sexual nature had been filed. On November 4, 2009, the Board issued an Interim Order for a Psychosexual Evaluation. On December 18, 2009 Board staff received the recommendations from the evaluation facility. The evaluators concluded that Dr. Higuera is at risk for further professional sexual misconduct and that they do not feel he is safe to continue the practice of medicine with females.

1 4. The Executive Director has consulted with investigative staff and the
2 Board's medical consultant, who has reviewed the case and agrees that a consent
3 agreement is appropriate.

4
5 **CONCLUSIONS OF LAW**

6 1. The Board possesses jurisdiction over the subject matter hereof and over
7 Respondent.

8 2. The Executive Director may enter into a consent agreement with a physician
9 if there is evidence of danger to the public health and safety pursuant to A.R.S. § 32-
10 1405(C)(25) and § 32-1451(F); A.A.C. R4-16-504.

11 3. Based on the information in the Board's possession there is evidence that if
12 Respondent were to practice medicine in Arizona there would be a danger to the public
13 health and safety.

14 **ORDER**

15 IT IS HEREBY ORDERED THAT:

16 1. Respondent shall not treat female patients until he applies to the Board and
17 receives permission to do so. The Board may require any combination of Staff approved
18 physical examination and psychiatric and/or psychological evaluations or other
19 examination/evaluation or interview it finds necessary to assist it in determining
20 Respondent's ability to resume treating female patients.

21 2. This is an interim order and not a final decision by the Board regarding the
22 pending investigative file and as such is subject to further consideration by the Board.
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1 DATED AND EFFECTIVE this 21st day of DECEMBER, 2009.



ARIZONA MEDICAL BOARD

By 
Lisa S. Wynn
Executive Director

7

8 **CONSENT TO ENTRY OF INTERIM ORDER**

9 1. Respondent has read and understands this Interim Order for Practice
10 Restriction and Consent to the Same and the stipulated Findings of Fact, Conclusions of
11 Law and Order ("Interim Order"). Respondent acknowledges he has the right to consult
12 with legal counsel regarding this matter.

13 2. Respondent acknowledges and agrees that this Interim Order is entered
14 into freely and voluntarily and that no promise was made or coercion used to induce such
15 entry.

16 3. By consenting to this Interim Order, Respondent voluntarily relinquishes any
17 rights to a hearing or judicial review in state or federal court on the matters alleged, or to
18 challenge this Interim Order in its entirety as issued, and waives any other cause of action
19 related thereto or arising from said Interim Order.

20 4. The Interim Order is not effective until approved and signed by the
21 Executive Director.

22 5. All admissions made by Respondent are solely for final disposition of this
23 matter and any subsequent related administrative proceedings or civil litigation involving
24 the Board and Respondent. Therefore, said admissions by Respondent are not intended
25 or made for any other use, such as in the context of another state or federal government

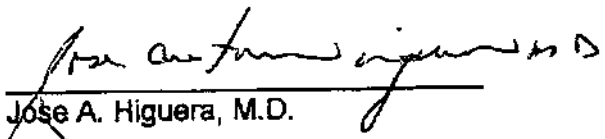
1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
2 any other state or federal court.

3 6. Upon signing this Interim Order, and returning this document (or a copy
4 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
5 entry of the Interim Order. Respondent may not make any modifications to the document.
6 Any modifications to this original document are ineffective and void unless mutually
7 approved by the parties.

8 7. This Interim Order is a public record that will be publicly disseminated as a
9 formal action of the Board and will be reported to the National Practitioner's Data Bank
10 and on the Board's web site.

11 8. If any part of the Interim Order is later declared void or otherwise
12 unenforceable, the remainder of the Interim Order in its entirety shall remain in force and
13 effect.

14 9. Any violation of this Interim Order constitutes unprofessional conduct and
15 may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
16 probation, consent agreement or stipulation issued or entered into by the board or its
17 executive director under this chapter") and 32-1451.

18  DATED: 12/21/09
19 Jose A. Higuera, M.D.
20

21 EXECUTED COPY of the foregoing mailed
22 this 21 day of December, 2009 to: Chris Banys via FAX

23 EXECUTED COPY of the foregoing mailed
24 this 21 day of December, 2009 to:

25 Jose A. Higuera, M.D.
Address of Record

1 ORIGINAL of the foregoing filed
this 21st day of January 2009 with:

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3 Arizona Medical Board
9545 E. Doubletree Ranch Road
4 Scottsdale, AZ 85258

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Arizona Medical Board Staff
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